



# TOWN OF HUACHUCA CITY

The Sunset City

**MEETING MINUTES OF THE  
HUACHUCA CITY TOWN COUNCIL  
March 21, 2024 AT 6:00 PM  
COUNCIL CHAMBERS  
500 N. GONZALES BLVD.  
HUACHUCA CITY, AZ 85616**

**A. Call to Order – Mayor**

- a. Pledge of Allegiance
- b. Roll Call and Ascertain Quorum

**B. Roll Call.**

**Roll Call.**

**Present:** Johann Wallace, Christy Hirshberg, Cynthia Butterworth, Danielle Cardella, Jeffrey Ferro, Debra Trate, Jean Smelt, Town Manager Suzanne Harvey (Not voting), Town Clerk Brandye Thorpe (not voting), Town Attorney Thomas Benavidez (Not voting).

**Absent:**

**C. Call to the Public – Mayor**

*A.R.S. 38-431.01 states the Public Body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the Public Body. At the conclusion of an open call to the public, individual members of the Public Body may respond to criticism made by those who have addressed the Public Body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the Public Body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.*

**D. New Business Before Council - Mayor**

*Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen, who wishes, may speak one time for five minutes on each agenda item before or after Council discussion. Questions from Council Members, however, may be directed to staff or a member of the public through the Mayor at any time.*

**Discussion – The Town Attorney will present training for Council and staff on open meeting laws, conflicts of interest, workplace conduct, professionalism, and equal opportunity employment.**

**Council and staff are encouraged to ask questions during the presentation. This item is for information only – no action will be taken.**

**Motion:** The Town Attorney will present training for Council and staff on open meeting laws, conflicts of interest, workplace conduct, professionalism, and equal opportunity employment. Council and staff are encouraged to ask questions during the presentation. This item is for information only – no action will be taken, **Action:** Open for Discussion only, **moved by** Johann Wallace, **Seconded by** Christy Hirshberg.

Town Attorney Benavidez begins a training on Discrimination, Harassment, and Related Workplace Issues.

State and federal statutes prohibit three types of workplace misconduct: Discrimination, Harassment, and Retaliation. These laws prohibit employers from discriminating against employees on the basis of sex, race, color, national origin, and religion. This generally applies to federal, state, and local governments. Some of these things are applied and interpreted broadly. This includes sexual orientation and gender identity/expression, including transgender identity, and same-sex harassment.

**Discrimination** – generally unlawful to refuse to hire or treat differently in compensation or work conditions based upon a protected classification. Protected classifications are Race, color, national origin, gender, disability, age, religion, etc. Complainants can show a disparate impact based upon neutral policies, policies that apply to everyone equally.

**Harassment** is prohibited conduct distinct from hiring and firing decisions. Two types of illegal harassment are: quid pro quo sexual harassment and Hostile Work Environment. Quid pro quo sexual harassment is defined as an advantage promised or given or implied in return for providing or agreeing to a sexual demand or even just a date. A hostile work environment must be based on a protected characteristic and the conduct must be severe and pervasive to a reasonable person. Stand-alone incidents do not typically create a hostile work environment. The employer's response should be "through, prompt, and remedial."

**Retaliation.** When employer takes an adverse action against a covered individual because they engage in "protected activity". Protected activity includes internal complaints about alleged discrimination; Threatening to file charge of discrimination; Expressing opposition to an employment practice employee reasonably believes is unlawful; and refusing to undertake an act reasonable believed to be illegal.

**Protected by age: ADEA.** ADEA prohibits discrimination against employees over the age of 40. Bona fide occupational qualifications can exempt Employer from age-related restriction, (e.g. Law enforcement (18/45) and Fire Suppression (18/36).

**Americans with Disabilities Act** prohibits discrimination against disabled people. "disability" is interpreted broadly. Such as a person with a physical or mental impairment that substantially limits one or more major life activities. A person with a history/record of such an impairment. A person perceived by others as having such impairment. Major life activities include caring for oneself, walking, seeing, hearing, speaking, working, sitting, standing, lifting, sleeping, thinking or concentrating, interacting with others.

ADA. Qualifies individual with a disability meets fundamental qualifications of the job and can perform essential functions of the job with or without reasonable accommodations. An employer has an obligation to engage the employee in discussion about what accommodations employee seeks and make determination of reasonableness of request.

Accommodation may include making facilities accessible, providing modified equipment, flexible scheduling, leave or job restructuring. Accommodation cannot impose an “undue hardship” to the employer. Individuals can be held liable for violations.

**The Equal Pay Act.** The equal pay act requires men and women be given equal pay for equal work in the same establishment. Jobs need not be identical, but they must be substantially equal. Job content, not job titles, determines whether jobs are substantially equal. The EPA prohibits unequal wages to men and women performing the same work. Requiring substantially equal skill, effort & responsibility, and are performed under similar working conditions within the same establishment. Individuals can be held liable under the act.

**The First Amendment.** Establishes freedom of: Religion (Ex: time off for religious holidays), Speech (Ex: Public employees/officials get to engage in social media use, the press (Ex: Employees have a right to speak on a matter of public concern), to peacefully assemble (Case law merges with the right of petition), and to petition the government (Ex: file a grievance). The First Amendment applies to public employers. It does not generally apply to private industry. Prior Restraint – government action which prohibits speech or expression before it happens. There can't be any of the following which limit free speech: Ordinance, Personal Policies, or Established personal practices. Retaliation. The employee engaged in protected speech (ex: political, whistleblowing, grievances). The employee was subject to adverse action (ex: termination, loss of wages). The action would keep a reasonable person from continuing to engage in the speech or conduct.

**Consequences for violations.** Lawsuits suck! Attorney General investigations are not fun! The Town could be held liable for damages. You personally can be held liable! You will have to sit for an uncomfortable deposition by an attorney and maybe the Attorney General. The newspaper might run a series of embarrassing stories about you and the Town. In short always take the high road and be professional at all times.

Attorney Benavidez next began a training on professionalism in the Workplace.

**The Importance of first Impressions.** Everything matters. Body language. Tone of Voice, the word we use.

**How is professionalism judged?** Your words are critical! Your appearance, demeanor, and competence are important. As community leaders, we're always being judged.

**Attributes of Professionals.** They are trustworthy/dependable. They use professional language and show respect to others. They are considerate. They don't bring personal issues to the workplace. They abide the law, rules, and policies. Professional control their emotions at work. Avoid gossip. Avoid racially sensitive or charged language and humor. They avoid politically sensitive or charged language and humor. Professionals don't talk about sex.

**Where do I start?** Have self-respect; look the part, look professional, speak professionally. Be prepared and on-time. Show respect to those that look up to you.

Individual Responsibility. Show respect for others and their rights and feelings. Know your boundaries/limits – ask questions. Stay out of others' personal business. Do not handle personal business at work. Keep inappropriate language out of the workplace. Minimize cell phone usage. Don't bring drama to work!

**Conclusion.** Remember, people are always judging you. We are all representatives of Huachuca City. We don't get a second chance to make a good first impression.

Attorney Benavidez then began a training on Special Issues for Councilmembers and Staff.

**Your Conduct as an Elected Official.** Your words are news! Anything you say has news value to your local newspapers, radio, and local social media groups. Always be mindful of what you say and how you say it! Ask yourself: would I like to see my words on the front page of the newspaper? Your conduct, both personal and public, is also news. The media gets broad latitude in deciding what to report about you. Because you are considered “politicians” of public figures”, you are afforded less privacy under the law. You might be followed or recorded without your knowledge!

**Avoid the Appearance of impropriety.** Nothing cause more public distrust of officials and loss of confidence in the leadership, and therefore the whole city government, than what may appear to be conflicting loyalties between public and private interests. You must constantly hold yourself at arm’s length to maximize the separation between your personal activity and your public identity. Avoid blending your personal business with public business. The media and members of the public will assume the worst.

**Conflict of Interest.** General statement of the law: Substantial interests must be revealed in official records. A public employee [or elected official] with a substantial interest cannot make decisions dealing with that interest. A public employee cannot sell goods to the agency where he/she is employed, this includes relatives of the employee.

Substantial Interest? Any personal interest that is: pecuniary or proprietary [financial or ownership interests], Direct or indirect [but not speculative]. How to determine substantial interest. Ask three questions. Will the decision have an impact on my interests or a relative's interest? Is it a pecuniary or proprietary interest? Is it an interest that is not remote or speculative interest? If all three answers are “yes”, there is a substantial interest.

**Remote Interests.** A non-salaried officer of a nonprofit corporation. A member of nonprofit marketing association. Minor stock ownership [less than 3% and less than 5% of total income]. Reimbursement for actual expenses [incurred in performance of duty]. Recipient of general public services. Trade/professional interest [must be a class of at least 10 members, with the same interest].

**What Should I Do?** You should declare the substantial interest in writing and/or in official meeting minutes. These disclosures must be kept in a special file at Town Hall. Refrain from participating in any way! If you are at a meeting, you must announce that you have a conflict. State what the conflict is on the record and leave the room. Also applies to discussions outside the public meeting.

**Other Prohibitions.** The use of confidential information (2-year limit). The use of official position for personal benefits [includes relatives]. Receiving additional compensation for performing official duties – no tips, no rewards, no free lunches.

**Penalties.** Penalties include private civil lawsuits. Public civil lawsuits. Loss of public employment or public office. Criminal prosecution.

**Open Meeting Law.** Why is this so important? Why have open meetings? Public policy of the state. A.R.S 38-431.09 – “meetings of public bodies [are to] be conducted openly”. “Agendas for such meetings [shall] be provided”. “Shall construe any provision of this article in favor of open and public meetings”.

**Basic requirements** are that all discussion and action shall occur at public meetings. Members of the public shall be allowed to attend, listen, and record. Does not require that members of the public be allowed to speak, but they have the right to observe, and they must be able to see and hear everything.

**Agenda Requirements.** Agendas must list specific matters to be discussed. Board may discuss only items on the agenda. They must be available to the public at least 24 hours before the meeting. [However, statues require we provide as much advance notice as possible].

**Discussions Outside of a Public Meeting.** The law requires that town business only be discussed at a public meeting. Email discussions of town issues between councilmembers should not occur due to the risk of the information spreading to a quorum of council. Asking another councilmember how they might vote on an issue is strongly discouraged. Asking a staff member to circumvent the law is not allowed.

**Investigations and Lawsuits.** The Attorney General and County Attorney are authorized to investigate and file lawsuits. They can impose civil penalties against you. They can have you removed from office. Asking a staff member to circumvent the law is not allowed. Attorney General and County Attorney are allowed to review the council's confidential executive session minutes to see if the law was violated in executive session.

**Public Records.** Almost every tangible document relating to town business is a public record! The Town's staff is responsible for maintaining the Town's records. The records must be preserved according to the state's records retention schedules. The records must be made accessible to the public. Town staff redacts public records only when required or allowed by law. Records you might not expect to be public, are public. Text messages about Town matters, even on your personal account. All emails about Town matters. Every draft of an electronic document [metadata]. Receipts for reimbursable expenses. Town credit card bills. Police body cam footage.

**Preservation of Records.** You have to provide records to the Town Clerk, if they aren't part of the Town's, IT system. It best to only communicate about Town business on your official email account. If you don't want to see it on the front page – don't write it down.

## G. Adjournment

**Motion:** To Adjourn, **Action:** Adjourn, **Moved by** Johann Wallace, **Seconded by** Christy Hirshberg.

Motion passed unanimously.

Approved by Mayor Johann R. Wallace on March 28th, 2024.

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Mr. Johann R. Wallace  
Mayor

Attest: \_\_\_\_\_  
Ms. Brandye Thorpe,  
Town Clerk

Seal:

## **Certification**

I hereby certify that the foregoing is a true and correct copy of the Minutes of the Meeting for the Huachuca City Town Council held on February 8th, 2024. I further certify that the meeting was duly called and a quorum was present.

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Ms. Brandye Thorpe,  
Town Clerk